

Section III. Remarks**Status of Currently Pending Claims**

The non-elected claim 142-187, 213-234, 242-243, 250 and 251, withdrawn by the examiner in the March 24, 2005 Office Action, have been canceled herein. Such cancellation is with express reservation of the right to file a divisional application directed to the subject matter thereof, during the pendency of the present application or during the pendency of a further continuing or divisional application based on and claiming the priority of the present application.

New claims 262-280 have been added herein, to encompass additional aspects of the invention. No new matter (35 USC 132) has been introduced.

The claims pending in the application are 188-212, 235-241, 244-249 and 252-280.

Amendment of the Specification

In response to the examiner's objections to the specification¹, the specification has been corrected to overcome the objections. At page 21, in the third paragraph, the erroneous reference to Figures 2 and 3 has been excised, thereby obviating the objection to such paragraph. At page 30, the typographical error mis-identifying the reference numeral for the ultrafilter in Figure 15 has been corrected, by deleting reference numeral 149 and inserting reference numeral 154 in place thereof.

In addition, typographical errors in the specification at pages 1, 4, 7, 8, 13 and 38 have been corrected by amendments hereinabove.

Submission of Terminal Disclaimer to Overcome Double Patenting Rejection

In response to the obviousness-type double patenting rejection of claims 188-212, 235-241, 244-249 and 252-261, over claims 49-68 of US Patent 6,214,574, a terminal disclaimer obviating such rejection is enclosed and submitted herewith.

¹ It is noted that the March 24, 2005 Office Action at page 2 thereof indicated that the abstract of the disclosure was objected to, but such statement was in the section headed "Specification" and referred immediately thereafter to textual issues at pages 21 and 30 of the specification. It therefore appears that the reference to the abstract was an inadvertent error and that reference to the specification was intended, since no infirmity in the abstract text was cited in the office action, and none is apparent from the undersigned attorney's review of the abstract.

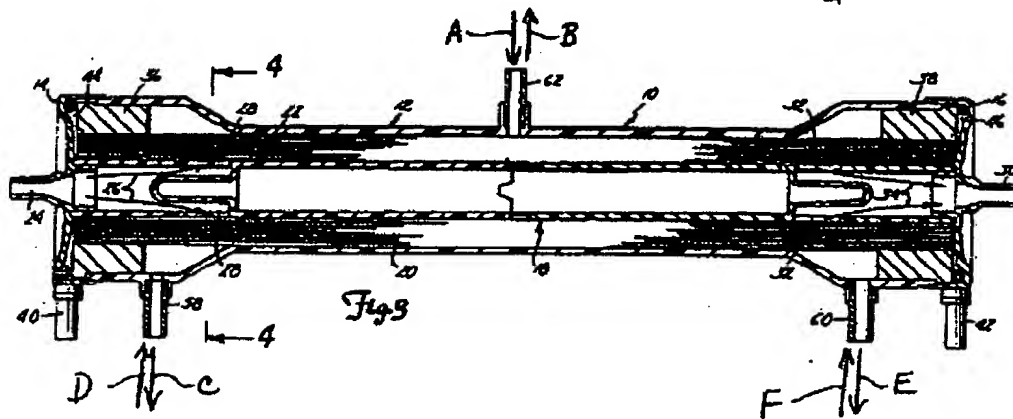
The applicable terminal disclaimer fee of \$65 specified in 37 CFR 1.20 (d) is included in the amount authorized be charged in the accompanying credit card authorization submitted herewith.

Rebuttal of Rejection of Claims 188-190, 193, 201-202, 210-212 and 235 over EP 0220650

In the March 24, 2005 Office Action, claims 188-190, 193, 201, 202, 210-212 and 235 were rejected under 35 USC 102 (b) as anticipated by EP 0220650 (Martínez).

The examiner in such rejection relies on the disclosure at column 6, lines 35-40 of Martínez, stating in pertinent part that "[T]he port 62 may be used as an inlet and the ports 58 and 60 may be used as outlets, or the flow may be reversed."

This disclosure, when applied to the referenced Figure 3 of Martínez, reproduced below for ease of reference, and annotated with arrows at the respective ports 58, 60 and 62,



merely indicates that fluid flow is into port 62 in the direction indicated by arrow A and fluid flow is out of ports 58 and 60 in the directions indicated by arrows C and E, respectively ("port 62 may be used as an inlet and the ports 58 and 60 may be used as outlets") and the subsequent statement that "or the flow may be reversed" indicates that the bioreactor may alternatively be arranged so that fluid flows into the ports 58 and 60 in the directions indicated by arrows D and F, respectively, and that fluid flows out of the port 62 in the direction indicated by arrow B. These are alternative arrangements, and there is nothing in Martínez, that in any way suggests or implies that fluid flow should be reversed during operation of the bioreactor. Contrariwise, the disclosure cited by the examiner merely identifies two alternative and mutually exclusive plumbing setups for the apparatus shown in Figure 3 of Martínez.

There is therefore no derivative basis in Martínez for applicant's invention as claimed in claims 188-190, 193, 201, 202, 210-212 and 235, and it therefore is requested that the rejection of such claims be withdrawn.

Patentable Distinction of Newly Added Claims 262-280 over the Art

In respect of the Martínez reference cited against various of the previously pending claims, it is pointed out that the newly added claims 262-280 patently distinguish over such reference for the same reasons as are applicable to the patentable character of claims 188-212, 235-241, 244-249 and 252-261 over the art.

Fees Payable for This Response to the March 24, 2005 Office Action

In view of the cancellation of non-elected, withdrawn claims 142-187, 213-234, 242, 243, 250 and 251, the addition herein of new claims 262-280 does not increase the number of independent or total claims beyond the number for which payment previously was made.

Accordingly, no fee is submitted to be due or payable for the added claims 262-280.

For the Terminal Disclaimer in closed and submitted herewith, a credit card authorization form authorizing payment in the amount of \$65 for the total disclaimer fee specified in 37 CFR 1.20 (d).

The Patent and Trademark Office is hereby authorized to charge any additional fees or amounts that are properly payable in connection with the entry of this Response, to Deposit Account No. 08-3284 of Intellectual Property/Technology Law.

CONCLUSION

Claims 188-212, 235-241, 244-249 and 252-280 are now in form and condition for allowance.

Favorable action therefore is solicited.

If any issues remain outstanding, incident to the formal allowance of the application, the examiner is requested to the conduct the undersigned attorney at (919) 419-9350, to discuss their resolution, in order that this application may be passed to issue at an early date.

Respectfully submitted,



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